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24. (Amended) A method of inserting an intracorneal continuous ring implant in the cornea of an eye comprising: [The method of claim 21 wherein]

- a) creating a small incision in said cornea;
- b) forming an opening pocket within said cornea through said incision; and
- c) inserting a continuous ring implant into said open pocket through said incision, said continuous ring implant [is] being inserted into an arc-shaped tube prior to insertion into said open pocket.

✓ Cancel claims 18, 19, 22 and 25 without prejudice.

## II. REMARKS

Claims, 1-17, 20, 21, 23 and 24 are pending in this application. Claims 1, 4-8, 11-17, 20, 21, 23 and 24 have been amended and claims 18, 19, 22 and 25 cancelled. No new matter is believed to have been introduced by way of this amendment.

Claim 11 was rejected under 35 U.S.C. § 112, second paragraph. Claim 11 has been amended in accordance with the Examiner's remarks and is believed to satisfy all requirements of Section 112.

Claims 1-3, 14-17, and 20-23 were rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Peyman (U.S. 5,964,748). This rejection is believed to be improper. Peyman does not disclose "creating a circular intracorneal channel" or "widening said circular intracorneal channel" as set forth in Applicant's claims 1 and 20. Peyman also does not disclose inserting a continuous ring implant in a stretched state into the pocket as set forth in amended claim 21. Accordingly, reconsideration and withdrawal of the rejection under § 102(e) is respectfully requested.

Claims 6, 8-11, 13 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peyman (supra). This rejection is not understood. The cited portions of Peyman are devoid of any suggestion of (1) inserting a dissector blade having a side leg as set forth in claims 6, 8-11 and 13 or (2) inserting the continuous ring implant into an arc-shaped tube prior to insertion into the pocket as set forth in claim 24. If the rejection is

restated in a further Office Action, Applicant requests that the Examiner explain why one would be motivated to substitute a dissector with a side leg for Peyman's pocket forming spatula and why one would be motivated to use an arc-shaped tube with Peyman's implant. Applicant further submits that the rejection is improper for the reasons provided in connection with the section 102(e) rejection.

Claims 4, 5, 7 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Peyman (supra) in view of Mathis et al. (U.S. 5,846, 256). Applicant also submits that this rejection is improper. First, Peyman is deficient for the reasons given in connection with the section 102(e) rejection. Further, the Examiner has not explained how the Peyman pocket would be formed with the dissector and channel connectors in Mathis et al.

Reconsideration and withdrawal of the Section 103 rejections appears to be nothing more than impermissible hindsight application of the teachings of Applicant's invention, which is respectfully requested.

### **III. CONCLUSION**

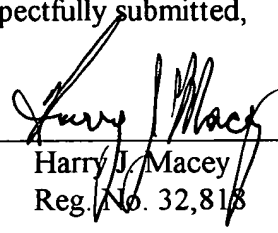
This application is believed to be in condition for allowance. Early notice to that effect is respectfully requested. If a telephone interview would advance prosecution of the subject application, the Examiner is invited to telephone the undersigned at the number provided below.

In the unlikely event that the transmittal letter is separated from this document and/or the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1295**, referencing attorney docket no. KV-36.00. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Date: September 18, 2000

By: \_\_\_\_\_

  
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